

**UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF MICHIGAN**

In Re: Dennis John Duchene, II

Case No: 1:17-bk-04463

Debtor

Filed: Chapter 7

Hon: Scott W. Dales

John Miller

Plaintiff-Creditor

v.

Adversary Proceeding No: 18-80007

Dennis John Duchene, II

Defendant-Debtor.

Donald J. Baranski (P41101)
Law Offices of Casey D. Conklin, PLC
Attorney for Creditor
4084 Okemos Rd., Suite B
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(517) 522-2550

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ANSWER AND AFFIRMATIVE DEFENSES

Now comes Dennis John Duchene, II (“Defendant” or “Duchene”), by and through his attorney, Charles R. Cuzydlo, and answers Plaintiff’s Complaint to Determine Non-Dischargeability as follows:

1. In response to paragraph one (1) of Plaintiff’s Complaint, Defendant states that no response is necessary as there are no allegations directed against Defendant.
2. In response to paragraph two (2) of Plaintiff’s Complaint, Defendant states that no response is necessary as there are no allegations directed against Defendant.

3. In response to paragraph three (3) of Plaintiff's Complaint, Defendant admits the allegations contained therein.
4. In response to paragraph four (4) of Plaintiff's Complaint, Defendant admits the allegations contained therein.
5. In response to paragraph five (5) of Plaintiff's Complaint, Defendant admits the allegations contained therein.
6. In response to paragraph six (6) of Plaintiff's Complaint, Defendant admits the allegations contained therein.
7. In response to paragraph seven (7) of Plaintiff's Complaint, Defendant admits the allegations contained therein.
8. In response to paragraph eight (8) of Plaintiff's Complaint, Defendant denies the allegations contained therein.
9. In response to paragraph nine (9) of Plaintiff's Complaint, Defendant lacks knowledge or information sufficient to form a belief as to the truth of those allegations contained therein and therefore denies same.
10. In response to paragraph ten (10) of Plaintiff's Complaint, Defendant denies the allegations contained therein.
11. In response to paragraph eleven (11) of Plaintiff's Complaint, Defendant denies the allegations contained therein.
12. In response to paragraph twelve (12) of Plaintiff's Complaint, Defendant denies the allegations contained therein.
13. In response to paragraph thirteen (13) of Plaintiff's Complaint, Defendant denies the allegations contained therein.

14. In response to paragraph fourteen (14) of Plaintiff's Complaint, Defendant denies the allegations contained therein.
15. In response to paragraph fifteen (15) of Plaintiff's Complaint, Defendant denies the allegations contained therein.
16. In response to paragraph sixteen (16) of Plaintiff's Complaint, Defendant denies the allegations contained therein.
17. In response to paragraph seventeen (17) of Plaintiff's Complaint, Defendant he lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and therefore, denies the allegations.
18. In response to paragraph eighteen (18) of Plaintiff's Complaint, Defendant denies the allegations contained therein.
19. In response to paragraph nineteen (19) of Plaintiff's Complaint, Defendant denies the allegations contained therein.
20. In response to paragraph twenty (20) of Plaintiff's Complaint, Defendant admits the allegations contained therein.
21. In response to paragraph twenty-one (21) of Plaintiff's Complaint, Defendant admits the allegations contained therein.
22. In response to paragraph twenty-two (22) of Plaintiff's Complaint, Defendant denies the allegations contained therein.
23. In response to paragraph twenty-three (23) of Plaintiff's Complaint, Defendant admits that he and Miller entered into various loans together, but denies the remaining allegations of the paragraph.
24. In response to paragraph twenty-four (24) of Plaintiff's Complaint, Defendant denies the allegations contained therein.

25. In response to paragraph twenty-five (25) of Plaintiff's Complaint, Defendant denies the allegations contained therein.
26. In response to paragraph twenty-six (26) of Plaintiff's Complaint, Defendant admits the allegations contained therein.
27. In response to paragraph twenty-seven (27) of Plaintiff's Complaint, Defendant denies the allegations contained therein.
28. In response to paragraph twenty-eight (28) of Plaintiff's Complaint, Defendant denies the allegations contained therein.
29. In response to paragraph twenty-nine (29) of Plaintiff's Complaint, lacks knowledge or information sufficient to form a belief as to the truth of those allegations contained therein and therefore denies same.
30. In response to paragraph thirty (30) of Plaintiff's Complaint, Defendant denies the allegations contained therein.
31. In response to paragraph thirty-one (31) of Plaintiff's Complaint, Defendant denies the allegations contained therein.
32. In response to paragraph thirty-two (32) of Plaintiff's Complaint, Defendant admits the allegations contained therein.
33. In response to paragraph thirty-three (33) of Plaintiff's Complaint, Defendant states the referenced documents speak for themselves, and further states that Inspired Business Development, LLC is not a debtor or defendant in this matter and deny the balance of the allegations.
34. In response to paragraph thirty-four (34) of Plaintiff's Complaint, Defendant admits he borrowed \$10,000.00 from plaintiff, but denies as untrue the remaining allegations of the paragraph and further states the documents speak for themselves.

35. In response to paragraph thirty-five (35) of Plaintiff's Complaint, Defendant denies the allegations contained therein.
36. In response to paragraph thirty-six (36) of Plaintiff's Complaint, Defendant denies the allegations contained therein.
36. [sic] In response to paragraph thirty-six (36) of Plaintiff's Complaint, Defendant admits the allegations contained therein.
37. In response to paragraph thirty-seven (37) of Plaintiff's Complaint, Defendant denies the allegations contained therein.
38. In response to paragraph thirty-eight (38) of Plaintiff's Complaint, Defendant denies the allegations contained therein.
39. In response to paragraph thirty-nine (39) of Plaintiff's Complaint, Defendant denies the allegations contained therein.
40. In response to paragraph forty (40) of Plaintiff's Complaint, Defendant denies the allegations contained therein as untrue.
41. In response to paragraph forty-one (41) of Plaintiff's Complaint, Defendant admits the allegations contained therein.
42. In response to paragraph forty-two (42) of Plaintiff's Complaint, Defendant denies the allegations contained therein.
43. In response to paragraph forty-three (43) of Plaintiff's Complaint, Defendant admits the allegations contained therein.
44. In response to paragraph forty-four (44) of Plaintiff's Complaint, Defendant denies the allegations contained therein.
45. In response to paragraph forty-five (45) of Plaintiff's Complaint, Defendant admits the allegations contained therein.

46. In response to paragraph forty-six (46) of Plaintiff's Complaint, Defendant lacks knowledge or information as to what plaintiff learned, and therefore denies said allegations.
47. In response to paragraph forty-seven (47) of Plaintiff's Complaint, Defendant denies the allegations contained therein.
48. In response to paragraph forty-eight (48) of Plaintiff's Complaint, Defendant denies the allegations contained therein.
49. In response to paragraph forty-nine (49) of Plaintiff's Complaint, Defendant admits the allegations contained therein and further states the district and circuit court records speak for themselves.
50. In response to paragraph fifty (50) of Plaintiff's Complaint, Defendant admits the allegations contained therein and further states the district court records speak for itself.
51. In response to paragraph fifty-one (51) of Plaintiff's Complaint, Defendant admits the allegations contained therein and further states the district and circuit court records speak for themselves.
52. In response to paragraph fifty-two (52) of Plaintiff's Complaint, Defendant admits the allegations contained therein and further states the district and circuit court records speak for themselves.
53. In response to paragraph fifty-three (53) of Plaintiff's Complaint, Defendant admits the allegations contained therein and further states the district and circuit court records speak for themselves.
54. In response to paragraph fifty-four (54) of Plaintiff's Complaint, Defendant admits the allegations contained therein and further states the district, circuit, appellate and bankruptcy court records speak for themselves.

55. In response to paragraph fifty-five (55) of Plaintiff's Complaint, Defendant admits that the Court of Appeals reversed and remanded the matter back to the 29th Judicial Circuit for the County of Clinton.

COUNT I

56. Defendant incorporates by reference Paragraphs one (one) through fifty-five (55).

57. In response to paragraph fifty-seven (57) of Plaintiff's Complaint, Defendant denies the allegations contained therein.

58. In response to paragraph fifty-eight (58) of Plaintiff's Complaint, Defendant denies the allegations contained therein.

59. In response to paragraph fifty-nine (59) of Plaintiff's Complaint, Defendant denies the allegations contained therein.

60. In response to paragraph sixty (60) of Plaintiff's Complaint, Defendant denies the allegations contained therein.

61. In response to paragraph sixty-one (61) of Plaintiff's Complaint, Defendant denies the allegations contained therein.

WHEREFORE, Defendant, requests this Honorable Court:

- A. Enter a judgment of no cause of action against Defendant and award Defendant his costs and attorney fees.
- B. Grant such other relief that it deems just, equitable and fair.

Respectfully Submitted,

CUZYDLO LAW GROUP, PLLC

Dated: 2/19/2018

/s/ Charles R. Cuzydlo
Charles R. Cuzydlo
Attorney for Defendant

AFFIRMATIVE DEFENSES

NOW COMES Dennis John Duchene, II (“Defendant” or “Duchene”), by and through his attorney, Charles R. Cuzydlo, and asserts the following Affirmative Defenses:

1. The Complaint fails to state a claim upon which relief can be granted.
2. Defendant does not owe any money to the Plaintiffs.
3. Plaintiffs have not suffered any damages for which he is entitled to any relief from Defendant.
4. Plaintiffs have failed to mitigate their damages.
5. Plaintiffs damages, if any, were the result of their own actions or inactions.
6. Plaintiffs have failed to act in good faith.
7. Plaintiffs were the first party to breach the contract.
8. Plaintiffs have unclean hands.
9. Defendant asserts any and all defenses available under the 18 USC §1962(C) *et seq.*
10. Defendant asserts any and all defenses available under the 18 USC §1962(d) *et seq.*
11. Defendant asserts any and all defenses available under the MCL §445.1501 *et seq.*
12. Defendant asserts any and all defenses available under the common law of the State of Michigan.
11. Defendant asserts any and all defenses available under the Michigan Limited Liability Act.
12. Accord and satisfaction.
13. Arbitration agreement.
14. Business judgment rule.
15. Failure to join a necessary or an indispensable party.
16. Failure to mitigate damages.
17. Lack of good faith.
18. Unclean hands.

19. Promissory estoppel.
20. Defendant reserves the right to assert additional defenses, as they become known.

WHEREFORE, Defendant, requests this Honorable Court:

- C. Enter a judgment of no cause of action against Defendant and award Defendant his costs and attorney fees.
- D. Grant such other relief that it deems just, equitable and fair.

Respectfully Submitted,

CUZYDLO LAW GROUP, PLLC

Dated: 2/19/2018

/s/ Charles R. Cuzydlo
Charles R. Cuzydlo
Attorney for Defendant